



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,860	04/12/2004	Federico Cabrele	713-1121	1818

7590 03/14/2008  
LOWE HAUPTMAN GILMAN & BERNER, LLP  
1700 Diagonal Road, Suite 310  
ALEXANDRIA, VA 22314

EXAMINER
----------

SAUTHER, FLEMING

ART UNIT	PAPER NUMBER
----------	--------------

3677

MAIL DATE	DELIVERY MODE
-----------	---------------

03/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/821,860

**Applicant(s)**

CABRELE, FEDERICO

**Examiner**

Flemming Saether

**Art Unit**

3677

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4, 6, 8-12, 14, 15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6, 8-12, 14, 15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6, 8, 9, 14, 15, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Berner (US 3,516,324). Berner discloses an anchor comprising two pair of main slots (6 and 7) defining main longitudinal anchoring tongues (20) therebetween on opposites sides of an axial plane (read as in a vertical orientation in Fig. 4); the main slots also being in the axial direction thus would be parallel to the plane; secondary longitudinal slots (5), having a overall length different from the first slots, which lie adjacent the longitudinal slots (at 23) forming secondary anchoring tongues (17 and 18). In regards to claim 14, it should be noted that these secondary anchoring tongues can be of different widths than the main tongues (column 3, line column 3, line 65-67) also, in regards to claim 17, they are on opposite sides of the axial plane (shown vertical in Fig. 4). Berner further discloses the longitudinal angular ribs (at the corners of the slots) and the serrations (at 13).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 6, 8, 9, 14, 15 and 17-19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Nehl (US 2002/0076297). Nehl discloses an anchor comprising two pair of main slots (28) defining main longitudinal anchoring tongues (14) therebetween on opposite sides of an axial plane (read as in a Horizontal orientation in Fig. 3); the main slots also being in the axial direction thus would be parallel to the plane. Nehl discloses a secondary longitudinal slots within the members (16), adjacent the main slots, forming secondary anchoring tongues (24) wherein the secondary slots are shorter than the main slots (see Fig 7). It should be recognized that the term "slot" is not required to be completely through the wall and while the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Alternatively, it would have been obvious for one of ordinary skill in the art to extend the secondary slots to be completely through the wall because it is obvious to experiment with variations for use in either the same field or a different one based on design incentives or other market forces because the variation would have been predictable to one of ordinary skill in the art. See MPEP 2143.

In regards to claim 14, it should be noted that these secondary anchoring tongues are of different widths than the main tongues (see Fig. 3) also, in regards to claim 17, they are on opposite sides of the axial plane (shown horizontal in Fig. 3). Nehl further discloses the longitudinal angular ribs at the corners of the slots.

Claim 4 is alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Nehl as applied to claim 1 above, and further in view of Berner. Berner discloses the serration lacking in Nehl. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the anchor of Nehl with serrations as disclosed in Berner in order for it to be better retained within an aperture.

Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berner or Nehl as applied to claim 1 above, and further in view of Sundstrom (US 5,205,668). Sundstrom discloses an anchor having a collar (10), flange (11), projecting appendixes (12) and head (4). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the anchors of Berner and Nehl with the a collar, flange, projecting appendixes and head as disclosed in Sundstrom in order to facilitated the anchor being properly positioned in a hole and preventing its rotation in the hole.

### ***Conclusion***

Applicant's remarks have been considered but, are moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Flemming Saether  
Primary Examiner  
Art Unit 3677

/Flemming Saether/  
Primary Examiner, Art Unit 3677